

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHAEL LEE MONROE,

Defendant-Appellant.

UNPUBLISHED

August 11, 2005

No. 253620

Oakland Circuit Court

LC No. 2003-189705-FH

Before: Whitbeck, C.J., and Sawyer and Fitzgerald, JJ.

MEMORANDUM.

Defendant Michael Monroe appeals as of right, challenging his sentences for first-degree home invasion,¹ aggravated stalking,² assault and battery,³ and third or higher habitual offender.⁴ We affirm. We decide this case without oral argument pursuant to MCR 7.214(E).

I. Basic Facts And Procedural History

This case is before us following a remand for resentencing. Pursuant to MCR 7.211(C)(1), we ordered the trial court to resentence Monroe consistent with any finding of facts and determinations made on the record. The trial court resentedenced Monroe to terms identical to those imposed under the initial sentencing.

II. Sentencing Challenge

On appeal, Monroe contends that using findings made by the judge, rather than the jury, to enhance his guidelines score violated his Sixth Amendment right to a trial by jury under *Blakely v Washington*.⁵ However, Monroe's reliance on *Blakely* is misplaced, because it does

¹ MCL 750.110a(2).

² MCL 750.411I.

³ MCL 750.81.

⁴ MCL 769.12.

⁵ *Blakely v Washington*, 542 US 296; 124 S Ct 2531; 159 L Ed 2d 403 (2004).

not apply to Michigan's sentencing scheme.⁶ Because Monroe's maximum sentence remained unchanged notwithstanding any facts the sentencing judge found, Monroe's Sixth Amendment rights were not violated.

III. Sentencing Information Report And Allocution Requirements

Monroe also argues that he was not shown the sentencing information report and was denied an opportunity for allocution. However, the record clearly shows that Monroe had the sentencing information report at or before the time of resentencing and that he was given the opportunity to allocute on the record. Therefore, the trial court complied with MCR 6.425.

Affirmed.

/s/ William C. Whitbeck

/s/ David H. Sawyer

/s/ E. Thomas Fitzgerald

⁶ See *People v Claypool*, 470 Mich 715, 730 n 14; 684 NW2d 278 (2004).